

1 MANATT, PHELPS & PHILLIPS, LLP  
2 CARL L. GRUMER (Bar No. CA 066045)  
3 11355 West Olympic Boulevard  
4 Los Angeles, CA 90064-1614  
5 Telephone: (310) 312-4000  
6 Facsimile: (310) 312-4224

7  
8 Attorneys for Appellant/ Secured Creditor  
9 Central Pacific Bank  
10  
11

12 UNITED STATES BANKRUPTCY COURT  
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
14 SANTA ROSA DIVISION  
15

16 In re

17 INDUSTRY WEST COMMERCE  
18 CENTER, LLC  
19 a California limited liability  
20 company,  
21  
22  
23  
24  
25  
26  
27  
28

Debtor.

Case No. 10-10088

Chapter Number: 11

**NOTICE OF APPEAL**

1 NOTICE IS HEREBY GIVEN that Appellant and Secured Creditor  
2 Central Pacific Bank hereby appeals under 28 U.S. C. §158(a) and (b) from the  
3 Order Confirming Debtor's Plan of Reorganization (the "Order") of the Honorable  
4 Alan Jaroslovsky, entered in this bankruptcy case on August 20, 2010. A true and  
5 correct copy of the Order is attached hereto as Exhibit "1" and incorporated herein  
6 by this reference.

7 The names of all parties to the Order appealed from and the names,  
8 addresses, and telephone numbers of their respective attorneys are as follows:

9 Appellant: Central Pacific Bank

10 Attorneys: Carl Grumer, Manatt, Phelps & Phillips, LLP, 11355  
11 West Olympic Boulevard, Los Angeles, California  
12 90064, Telephone (310) 312-4000.

13 Ray H. Olmstead, P.O. Box 15031, Santa Rosa, CA  
14 95402. Telephone (707) 539-5551.

15  
16 Respondent: Industry West Commerce Center, LLC

17 Attorneys: John H. MacConaghy, MacConaghy & Barnier, PLC  
18 645 First St. West, Sonoma, CA 95476, Telephone (707)  
19 935-3205  
20

21 Respondent: Todd JBRE, LLC

22 Attorneys: Steven M. Olson, Law Office of Steven M. Olson, 100 E  
23 St., Ste 214, Santa Rosa, CA 95404, Telephone (707)  
24 575-1800  
25

26 If a Bankruptcy Appellate Panel Service is authorized to hear this  
27 appeal, each party has a right to have the appeal heard by the district court. The  
28 appellant may exercise this right by filing a separate statement of election at the

1 time of the filing of this notice of appeal. Any other party may elect, within the  
2 time provided in 28 U.S.C. § 158(c), to have the appeal heard by the district court.

3  
4 Dated: September 1, 2010

MANATT, PHELPS & PHILLIPS, LLP  
Carl L. Grumer

5  
6 By:   
7 Carl L. Grumer  
8 *Attorneys for Appellant/Secured Creditor*  
9 CENTRAL PACIFIC BANK  
10  
11

12 300144857.1  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT 1**

MacCONAGHY & BARNIER, PLC  
JOHN H. MacCONAGHY, State Bar No. 83684  
JEAN BARNIER, State Bar No. 231683  
645 First St. West, Suite D  
Sonoma, California 95476  
Telephone: (707) 935-3205  
Facsimile: (707) 935-7051  
Email: macclaw@macbarlaw.com

Attorneys for Debtor  
INDUSTRY WEST COMMERCE CENTER

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re:	)	Case No. 10-10088
	)	(Chapter 11)
INDUSTRY WEST COMMERCE	)	
CENTER, LLC,	)	<b>ORDER CONFIRMING</b>
A California limited liability company	)	<b>DEBTOR'S PLAN OF</b>
	)	<b>REORGANIZATION</b>
Debtor.	)	

The Plan of Reorganization filed by the Debtor Industry West Commerce Center, LLC on February 18, 2010, as modified, came on for final Confirmation Hearing on June 3, 2010, and August 5, 2010. MacConaghy & Barnier, PLC by John H. MacConaghy appeared for the Debtor; other appearances were noted on the record at the respective hearings.

At the hearing on June 3, 2010, various parties presented evidence as to whether the Plan of Reorganization and the Debtor had complied with the requirements of 11 USC § 1129(a) and whether the Plan was fair and equitable as to all rejecting classes of creditors. Following that hearing, the Court issued its initial "Memorandum on Plan Confirmation", concluding that the Plan was not fair and equitable as to the secured claim of the Class 2 Creditor Todd JBRE, LLC, and reserving determination of other issues. The Debtor thereafter filed its Modified Plan of Reorganization, dated July 21, 2010, amending the treatment of the Class 2 Creditor. The Class 2 Creditor thereafter accepted the Plan, as modified. A further hearing was held on August 5, 2010, as to the ongoing objection to confirmation of the Class 1 Creditor Central Pacific Bank.

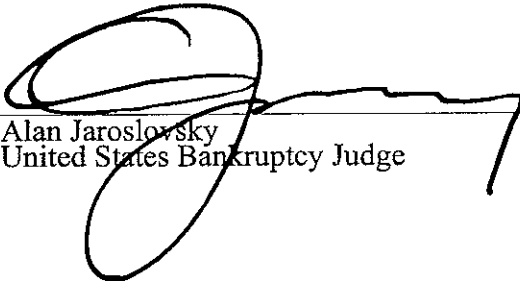
1       Following consideration of the evidence and the oral and written arguments of counsel, the  
2 Court issued its "Memorandum on Confirmation of Amended Plan" pursuant to Bankruptcy Rule  
3 7052, specifying the terms under which the Plan would be confirmed. Thereafter a further Debtor's  
4 Modified Plan of Reorganization, dated August 16, 2010, incorporating the modifications specified  
5 in the "Memorandum on Confirmation of Amended Plan" was filed with the Court.

6       On consideration of the record of the case and the oral and written argument of counsel, the  
7 Court finds and concludes that the Debtor has proposed the Plan, as Modified, in good faith and in  
8 not by any means forbidden by law, that all required solicitation materials for the Plan have been  
9 duly transmitted to all appropriate parties in interest, and that the Plan, as Modified, otherwise  
10 complies with the provisions of 11 USC § 1129 and other applicable provisions of the Bankruptcy  
11 Code. Good cause appearing:

12       **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

- 13       1. The Debtor's Modified Plan of Reorganization, dated August 16, 2010, is confirmed;
- 14       2. The modifications to the Plan of Reorganization which are incorporated in Modified  
15       Plan of Reorganization, dated August 16, 2010 are deemed to be nonmaterial and/or  
16       favorable to all Classes of Creditors, and no new solicitation of  
17       Ballots by the Debtor of the Modified Plan of Reorganization is required;
- 18       3. All other objections to confirmation are overruled.

19  
20       Dated: August 20, 2010

21  
22         
23       Alan Jaroslovsky  
24       United States Bankruptcy Judge

1 **PROOF OF SERVICE**

2 I, BEATRICE RUIZ, declare as follows:

3 I am employed in Los Angeles County, Los Angeles, California. I am over the age of  
4 eighteen years and not a party to this action. My business address is MANATT, PHELPS &  
5 PHILLIPS, LLP, 11355 West Olympic Boulevard, Los Angeles, California 90064-1614. On  
September 2, 2010, I served the within:

6 **NOTICE OF APPEAL**

7 on the interested parties in this action addressed as follows:

8 John H. MacConaghy  
9 MacConaghy & Barnier, PLC  
645 First St. West  
Sonoma, CA 95476  
10 Email: [macclaw@macbarlaw.com](mailto:macclaw@macbarlaw.com)

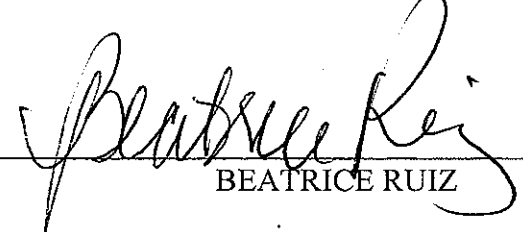
Steven M. Olson  
Law Office of Steven M. Olson  
100 E. St., Ste. 214  
Santa Rosa, CA 95404  
Email: [smo@smolsonlaw.com](mailto:smo@smolsonlaw.com)

11 Ray H. Olmstead  
12 P.O. Box 15031  
13 Santa Rosa, CA 95402  
Email: [rho@mstead.com](mailto:rho@mstead.com)



15 (BY MAIL) By placing such document(s) in a sealed envelope, with postage  
16 thereon fully prepaid for first class mail, for collection and mailing at Manatt,  
17 Phelps & Phillips, LLP, Los Angeles, California following ordinary business  
18 practice. I am readily familiar with the practice at Manatt, Phelps & Phillips, LLP  
19 for collection and processing of correspondence for mailing with the United States  
Postal Service, said practice being that in the ordinary course of business,  
correspondence is deposited in the United States Postal Service the same day as it  
is placed for collection.

20 I declare under penalty of perjury under the laws of the State of California that the  
21 foregoing is true and correct and that this declaration was executed on September 2, 2010, at Los  
22 Angeles, California.

23   
24 BEATRICE RUIZ

25 300146051.1